

REMARKS

In response to the examiner's rejection of claims 1, 3-16, 21-23, 25-31 and 33-42 as being unpatentable under 35 USC 103 over US Patent No. 6,066,083 to Slater et al. ("Slater") in view of US Patent Application Publication No. US 2002/0022781 to McIntire et al. ("McIntire"), the rejection of claims 65-66 as being unpatentable over Slater in view of McIntire and further in view of US Patent No. 6,364,855 to Zappala ("Zappala") and the rejection of claims 17-20 and 67 as being unpatentable over Slater in view of McIntire and further in view of US Patent No. 6,572,525 to Yoshizumi ("Yoshizumi"), Applicant respectfully traverses the rejections because the claims have been amended and distinguish over the prior art.

Claims 1, 3-16, 21-23, 25-31 and 33-42

These claims have been rejected as being unpatentable under 35 USC 103 over US Patent No. 6,066,083 to Slater et al. ("Slater") in view of US Patent Application Publication No. US 2002/0022781 to McIntire et al. ("McIntire"). However, the combination of prior art cited by the examiner does not disclose each claim element for the reasons set forth below.

Claim 1

Claim 1 recites "a parabolic surface defining a body chamber filled with a gas; and a radioisotopic component inside the body chamber that is surrounded by the gas wherein the gas has a density difference with the body chamber and the tissue into which the implantable brachytherapy seed device is implantable so that the implantable brachytherapy seed is more easily imaged using acoustic energy" which is not disclosed by Slater or McIntire.

The examiner does not rely on McIntire as disclosing any elements of claim 1.

Slater also does not disclose these claim elements. Slater discloses an implantable brachytherapy device that has an inner capsule 12 and biocompatible outer capsule 14. *See Slater at Figure 1 and col. 4, lines 46-53.* The Slater device has a uniform space 28 between the inner and outer capsules. *See Slater at Figure 1 and col. 4, lines 62-65.* However, Slater does not disclose the claimed "parabolic surface defining a body chamber filled with a gas; and a radioisotopic component inside the body chamber that is surrounded by the gas" for at least two reasons. First, there is no disclosure at all that the space 28 in Slater has a gas in it. Second, even if Slater does disclose that the space has gas in it (which it does not), Slater does not

disclose "a radioisotopic component inside the body chamber that is surrounded by the gas" because in fact, there is no inside of the space 28 in Slater. Thus, Slater does not disclose each claim element and the obviousness rejection of this claim must be withdrawn.

Claims 3-16, 21-23, 25-31 and 33-42

These claims all depend from claim 1 and the obviousness rejection of these claims must be withdrawn for the same reasons as claim 1.

Claims 65-66

These claims also depend from claim 1. Since the combination of Slater and McIntire do not disclose each element of claim 1 for the reasons set forth above and Zappala does not cure the disclosure defect of Slater and McIntire, the obviousness rejection of these claims must be withdrawn.

Claims 17-20 and 67

These claims also depend from claim 1. Since the combination of Slater and McIntire do not disclose each element of claim 1 for the reasons set forth above and Yoshizumi does not cure the disclosure defect of Slater and McIntire, the obviousness rejection of these claims must be withdrawn.

CONCLUSION

In view of the above, it is respectfully submitted that the claims are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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